

*Douglas L Jones
1994 S Hwy 77
Cameron TX 76520*

To:

Clerk of Court
US District Court
Southern District of Texas
PO Box 61010
Houston TX 77208

October 20, 2008

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

OCT 22 2008

Re: Civil Action 4:08-cv-02105, Mosher v. Keanster, et al.

Michael N. Milby, Clerk of Court

Response from Defendant
Civil Action 4:08-cv-02105

I am Douglas Jones of Cameron, Texas, named as a defendant in Mosher vs. Keanster, et al.

I am 60 years old and live on a Civil Service retirement pension, plus I receive 30% compensation from the VA for disabilities I incurred in the Vietnam War. I cannot afford an attorney and ask the court to accept this response to this lawsuit, which was filed on July 2, 2008, and which I received notice of on October 4, 2008.

Mr. Mosher's lawsuit fails to contain a statement of facts which would allow me to frame a proper defense to his complaints. However, without knowing exactly what I'm being sued for, and while I reserve the right to plead other defenses as discovery proceeds, I respond as follows:

Charge 1: That I violated the plaintiff's copyright protections. I deny this charge.

The defendants named in this case have done no more than use short clips from Mr. Mosher's videos in the making of response videos on YouTube. This form of criticism is well-protected by the Fair Use provision of the DMCA.

Charge 2: That I libeled the plaintiff. I deny this charge.

There is a lot of name-calling on YouTube, an internet website where people create anonymous accounts and understand they have a First Amendment right to speak anonymously. Mr. Mosher and I have traded insults in videos, but these remarks do not rise to the level of defamation of character because they do not take place in the real world, where people's real reputations are at stake. They take place between anonymous or semi-anonymous accounts on a video-sharing website.

Regarding a Rule 26(f) Conference:

I have made no effort to contact the plaintiff to confer as required by civil procedures, for two reasons. First, I believe his lawsuit is frivolous and, I have no plan to make a settlement offer, and therefore a conference would be fruitless. Mr. Mosher is well-known in the court

system of New Jersey for filing frivolous court actions and has had 75 complaints dismissed in the last 6 years or so. A fair sampling of his work can be seen on the PACER system with a search under the name Gary Mosher.

Secondly, Gary Mosher is so disabled by psychiatric illness that he is unable to work or to function normally in society, and I would prefer to minimize contact with him because I have no way of knowing whether his mental instability represents a danger to me. As he has established in earlier court claims, he is rated 100% disabled by the Social Security Administration because of mental illness.

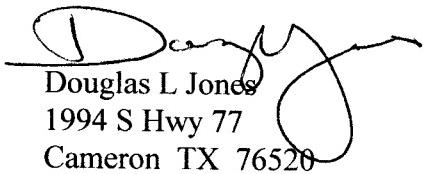
Since I cannot afford to hire an attorney or to make a trip to Houston to appear at the conference scheduled for October 29th at 10:00 am before Judge Stephen Wm Smith, I ask that the requirement for this conference be waived or at least postponed until the plaintiff has provided sufficient disclosure so that I know why I am being sued and can seek legal council and prepare a reasonable defense. I would also like to make the following motions:

Motion 1: I would ask the court to dismiss this lawsuit in its entirety for being an improper filing, in that it fails to provide a basic statement of facts, as required by law. Allegations that are so vague that defendants cannot defend themselves should be considered inadequate.

Motion 2: I would ask the court to dismiss this lawsuit in its entirety for failure to state a claim for which relief could be granted. The plaintiff can demonstrate no loss of income or other harm or injury arising from alleged libel or copyright violations on YouTube, and there is no basis on which the court should award him damages or other enrichment. His claims ask the court to re-write the Digital Millenium Copyright Act, and to limit our free speech rights on the internet.

Motion 3: I would ask the court to dismiss this lawsuit in its entirety for failure to comply with the court's Order for Conference. As of October 20, 2008, Mr. Mosher has made no effort to contact me to confer as required by FRCP Rule 26(f). The court required that by that date, the plaintiff was to have filed a joint discovery/case management, which I presume he has not done since there has been no conference.

I have provided a copy of this response to the plaintiff.



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